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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/699,453	10/30/2003	Stephen N. Weiss	4110-276UI (405)	2854

570 7590 09/08/2005

AKIN GUMP STRAUSS HAUER & FELD L.L.P.  
ONE COMMERCE SQUARE  
2005 MARKET STREET, SUITE 2200  
PHILADELPHIA, PA 19103

EXAMINER
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CEGIELNIK, URSZULA M

ART UNIT	PAPER NUMBER
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3714

DATE MAILED: 09/08/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/699,453

Applicant(s)

WEISS ET AL.

Examiner

Urszula M. Cegielnik

Art Unit

3714

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 05 August 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 4-16 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 4-16 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

Art Unit: 3714

**DETAILED ACTION**

The finality of the Office action dated 25 May 2005 has been withdrawn, and prosecution has been reopened.

***Claim Rejections - 35 USC § 102***

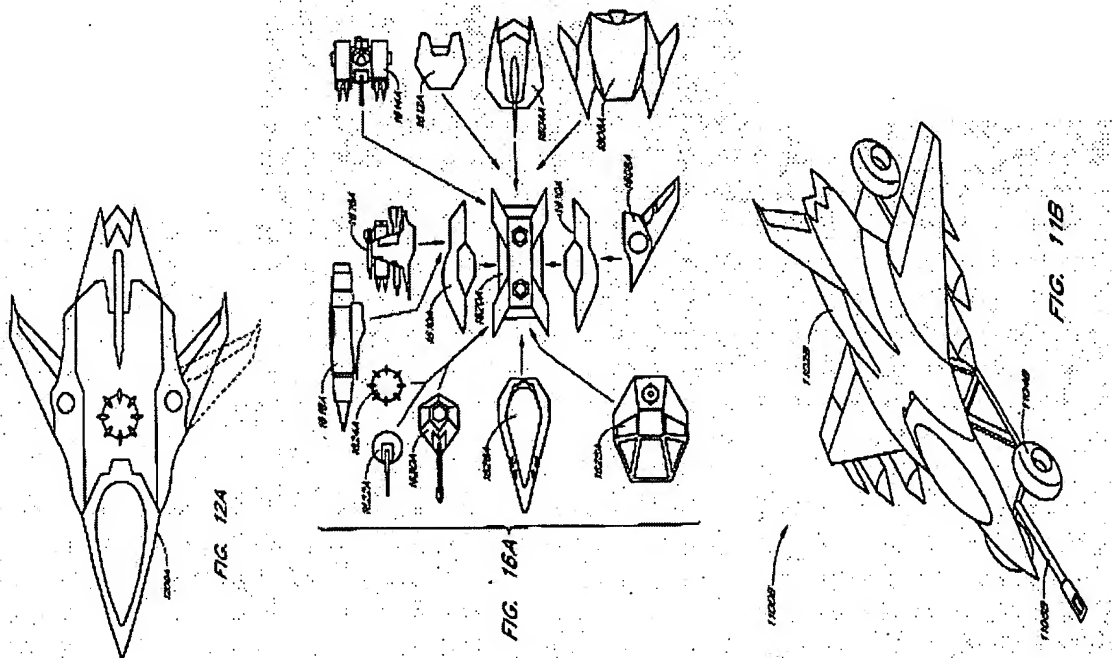
The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 4 and 5 are rejected under 35 U.S.C. 102(e) as being anticipated by

Tachau et al.



Art Unit: 3714

Tachau et al. disclose a remote controlled toy having a variety of embodiments which include at least an on-board power supply (paragraph 0068, lines 1-7)); at least a plurality of wheels (1104B in Figure 11B, for example) supporting the vehicle for itinerant movement (paragraph 0079, lines 10-12); at least one motor operably coupled to at least one of the wheels to provide at least part of the itinerant movement of the vehicle (paragraph 0079, lines 10-12); a controller circuit configured to selectively supply power from the power supply to the at least one motor in response to commands from a transmitter (paragraph 0061, lines 13-20\*) remote from the vehicle to move the toy vehicle (paragraph 0064, lines 1-2); a hinged (paragraph 0039, lines 1-4), three part chassis (see Figure 16A, for example) having a first longitudinal end and a second, opposing longitudinal end and including a central chassis portion (1620A) having opposing first and second lateral sides; a first lateral chassis portion (1610A) pivotally coupled with the central chassis portion (1620A) on the first lateral side of the central chassis portion (1620A), and a second lateral chassis portion (1610A) pivotally coupled to the central chassis portion (1620A) on a second lateral side of the central chassis portion, the first and second lateral chassis portions (1610A) are coupled so as to pivot with respect to the central chassis portion (1620A) in a common plane (the wings are swept back or swung forward around a first axis, see Figures 12A and 27, paragraph 0052, lines 1-8); a signal is generated by a switch capable of detecting a position of at least one of the lateral chassis portions relative to the central chassis portion (paragraph 0038); a pair of links (see Figure 27 and paragraph 0052, lines 1-5, each link being pivotally coupled to the central chassis portion and one of the first and second lateral

Art Unit: 3714

chassis portion at the first longitudinal of the vehicle to permit the first longitudinal end of each lateral chassis portion to pivot away from and toward the central chassis portion and a separate light source in each link (paragraphs 0039; 0052, lines 17-20, and 0063).

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 6-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Choi in view of WO 95/18660, hereinafter WO '660.

Art Unit: 3714

Choi discloses a remote controlled toy vehicle where actions associated with the toy vehicle are provided with audio (col. 4, lines 52-54) and visual output (col. 4, lines 61-62). The audio output includes sound effects such as screeching, honking, speeding, acceleration, and engine noise. The visual output is in the form of an LED (light emitting diode) that acts and reacts and matches the action of the car. The toy vehicle includes an on-board power supply (40); a plurality of wheels (25); a motor (42); a controller circuit (41). Choi illustrates a switch (51) that is responsive to the movement of the toy vehicle (i.e. performing movement by pressing keypad buttons) and generates a sound effect or light reaction (col. 8, lines 4-9).

Choi does not disclose explicitly disclose a time function element for the LED (light emitting diode).

WO '660 discloses a toy with visual output having a LED (light emitting diode) which is responsive to an electronic circuit which according to a predetermined time scheme influencing the intensity of luminous power (page 3, lines 26-30 and page 5, lines 25-28).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide an illumination driving element as taught by WO '660, since such a modification would permit the LED (light emitting diode) to act and react and match the action of the car.

### ***Response to Arguments***

Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection.

Art Unit: 3714

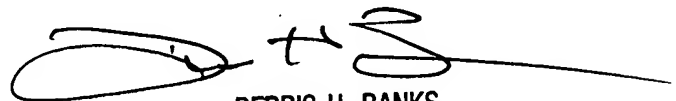
**Conclusion**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Urszula M. Cegielnik whose telephone number is 571-272-4420. The examiner can normally be reached on Monday through Friday, from 5:45AM - 2:15PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Derris H. Banks can be reached on 571-272-4419.

**The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300 for both regular and After Final communications.**

Urszula M. Cegielnik  
Assistant Examiner  
Art Unit 3714

A handwritten signature in black ink, appearing to read 'DHS', with a long horizontal line extending to the right.

DERRIS H. BANKS  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3700